Cr.R No.61/2007

15.06.2007 Present: Mr. Deepak Kaushal, counsel for the petitioners.

Mr. Ashok Chaudhary, Additional Advocate General, for the respondent-State.

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Admit. Heard finally.

This Revision Petition is directed against the order dated 5.9.2006, passed by the learned Sessions Judge, ordering the impleadment of the Revision Petitioners as accused in a case under Sections 304-B and 498-A IPC, in exercise of the powers under Section 319 of the Code of Criminal Procedure.

A lady named Monika, who was married to one Naresh Aggarwal, died unnatural death within seven years of her marriage. A case was registered under Sections 304-B and 498-A IPC, on the complaint of her borther PW-1 Ashish Aggarwal. In the complaint besides the names of the husband (Naresh Aggarwal), mother-in-law (Salochana Devi) and sister-in-law (Sunita) of the deceased, names of the present Revision Petitioners, i.e., Rajni, another sister-in-law of the deceased, Hemant Kumar husband of Rajni and Nirmala Aggarwal were mentioned. The Police, however, on investigation found that there was no material available indicating the involvement of the present Revision Petitioners. Accordingly, the Police challaned only the husband Naresh Aggarwal, mother-in-law Salochana and sister-in-law Sunita of deceased Monika. The Sessions Court, after framing the charge against the challaned three persons, proceeded to try the case. It recorded the statement of Ashish Aggarwal, a brother of the deceased. Said Ashish Aggarwal, in the course of his statement as PW-1, got recorded that besides the challaned accused, the present Revision Petitioners were also responsible for causing the death of Monika. The Court put a question to Ashish Aggarwal as to what was the basis of his saying that the present

Revision Petitioners were also responsible for the death of Monika or involved in the commission of the crime resulting in her death. He answered that Nirmala Aggarwal was at the house of the husband of the deceased where the crime had been committed on the date of the commission of the crime and that the other two Revision Petitioners, namely Rajni and Hemant Kumar, were about to reach the house of the husband of the deceased.

The presence of Nirmala Aggarwal, as per testimony of PW-1 Ashish Aggarwal, may amount to a piece of evidence, suggesting the presence of Nirmala Aggarwal on the scene of the crime on the date of the commission of the crime and, therefore, it can be said there is some evidence indicating the involvement of Nirmala Aggarwal. Hence, the order of the Sessions Court impleading said Nirmala Aggarwal, in exercise of the powers under Section 319 of the Code of Criminal Procedure, cannot be said to be illegal or without jurisdiction.

So far as the other Revision Petitioners are concerned, the aforesaid explanation offered by PW-1 Ashish Aggarwal in answer to Court question does not indicate their involvement. What he has stated is that these two Revision Petitioners were about to reach the house of the husband of the deceased on the day of the commission of the crime. This, in my considered view, is not indicative of their involvement in the commission of the crime or in the alleged conspiracy to commit the crime. Hence, the order of the Sessions Judge for their impleadment is unsustainable and is accordingly set aside.

Revision Petition stands disposed of accordingly.

Cr.MP No.233/2007

Infructuous.

June 15, 2007(sd) **(Surjit Singh), J.**